

### **REMARKS/ARGUMENTS**

Applicants have received and carefully reviewed the Final Office Action of the Examiner mailed September 22, 2008 and the Advisory Action mailed January 29, 2009. This amendment is being filed along with a Request for Continued Examination. Currently, claims 1-30 remain pending of which claims 1-8 and 21-30 were previously withdrawn. Claims 9-20 have been rejected. Favorable consideration of the above amendments and the following remarks is respectfully requested.

As a matter of formality, Applicants respectfully point out that two references are cited within the Final Office Action (as well as previous actions) that are not explicitly identified by the Examiner.

First, and as has been previously identified by the Applicants, during the Examiner's discussion of Shortt (for example, in paragraph 5 of the current Final Office Action), the Examiner cites "the disclosure of Stiles". However, Applicants cannot find where "Stiles" has ever been identified as a cited reference. Applicants respectfully request that if "Stiles" is to be relied upon as a reference, that the reference be appropriately identified in a subsequent Office Action.

Secondly, the Examiner cites "Jendersee et al." (for example, in paragraph 18 of the current Final Office Action) without identifying the corresponding reference number. Applicants have assumed that the correct reference is U.S. Patent No. 5,147,302 that was identified on the "Notice of References Cited" in the Office Action of January 24, 2007. However, Applicants note that in that Office Action, as well as all subsequent actions, the reference is never cited in the Detailed Action by its properly-identified patent number.

#### ***Claim Rejections – 35 USC § 103***

Claims 9 and 13 were rejected under 35 U.S.C. §103(a) as being unpatentable over Shortt (U.S. Patent No. 6,948,223) in view of Morales (U.S. Patent No. 5,920,975).

Claim 12 was rejected under 35 U.S.C. §103(a) as being unpatentable over Shortt in view of Morales as applied to claim 9, and further in view of Euteneuer et al. (U.S. Patent No. 5,147,302).

Claims 9 and 18 were rejected under 35 U.S.C. §103(a) as being unpatentable

over Shortt in view of Morales.

Claims 10-11 were rejected under 35 U.S.C. §103(a) as being unpatentable over Shortt in view of Morales as applied to claim 9, and further in view of Miraki et al. (U.S. Patent No. 5,704,845).

Claim 12 was rejected under 35 U.S.C. §103(a) as being unpatentable over Shortt in view of Morales as applied to claim 9, and further in view of Johnson (WO02/066095).

Claims 14-15 were rejected under 35 U.S.C. §103(a) as being unpatentable over Shortt in view of Morales as applied to claim 9, and further in view of Motsenbocker et al. (U.S. Patent No. 6,629,350).

Claims 16-17 and 19-20 were rejected under 35 U.S.C. §103(a) as being unpatentable over Shortt in view of Morales as applied to claim 9, and further in view of Jendersee et al. (U.S. Patent No. 5,147,302).

After careful review, Applicants must respectfully traverse the rejections, particularly in view of the current amendment.

\*\*\* “All words in a claim must be considered in judging the patentability of that claim against the prior art.” *In re Wilson*, 424 F.2d 1382, 1385, 165 USPQ 494, 496 (CCPA 1970). If an independent claim is nonobvious under 35 U.S.C. 103, then any claim depending therefrom is nonobvious. *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988).” (MPEP 2143.03).

The Examiner acknowledges that “Shortt fails to disclose crimping the stent onto the balloon as the step of crimping is done prior to the stent being placed over the balloon”, relying upon Morales to provide the element (“crimping the stent onto the balloon”) of independent claim 9 missing from Shortt. Further, the Examiner states that “the diameter of a distal section of the balloon distal of the “distal pillow” is smaller than the initial diameter of the stent”.

Applicants believe that the language of claim 9 has been inappropriately interpreted by the Examiner, that is, it was not interpreted in light of the current specification. When taken in view of the specification and drawings, Applicants believe that the phrase “placing a stent over the balloon so that a distal end of the stent is disposed proximally to the distal end of the balloon leaving a distal section of the balloon

uncovered by the stent” clearly meant that the recited distal section of the balloon included all of the balloon located distal of the stent, and not simply a portion of the balloon distal of the stent (such as that distal of the distal pillow), as asserted by the Examiner. See, for example, paragraphs [0013] and [0035] of the published specification (U.S. Publication No. 2004/0260379). However, in order to advance prosecution of the application, Applicants have amended claim 9 to provide additional clarity regarding the claimed distal section of the balloon.

Claim 9 now recites, in part, “placing a stent over the balloon so that a distal end of the stent is disposed proximally to the distal end of the balloon leaving a distal section of the balloon extending from the distal end of the stent to the distal end of the balloon uncovered by the stent”.

Accordingly, Applicants believe that Shortt clearly does not include all of the claim elements of independent claim 9, nor does Morales appear to provide or suggest those missing elements. Therefore, Applicants submit that independent claim 9 is indeed patentable over the cited combination of Shortt and Morales. Since claims 10-20 depend from allowable claim 9 and add additional elements thereto, Applicants submit that these claims are also patentable over the cited references. Withdrawal of the rejections is respectfully requested.

***Conclusion***

In view of the foregoing, all pending claims are believed to be in condition for allowance. Reexamination and reconsideration are respectfully requested. Issuance of a Notice of Allowance in due course is anticipated. If a telephone conference might be of assistance, please contact the undersigned attorney at (612) 677-9050.

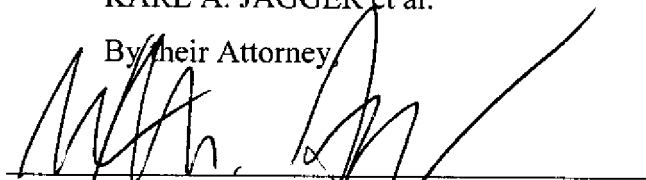
Respectfully submitted,

KARL A. JAGGER et al.

By their Attorney

Date:

March 20, 2009

A handwritten signature in black ink, appearing to read 'G. Seager', is written over a horizontal line.

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